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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,806	10/11/2005	Bernhard Gleich	DE 030116	5535
24737 7590 05/11/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
DEJONG, ERIC S				
ART UNIT		PAPER NUMBER		
1631				
MAIL DATE		DELIVERY MODE		
05/11/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/552,806	<b>Applicant(s)</b> GLEICH, BERNHARD
<b>Examiner</b> ERIC S. DEJONG	<b>Art Unit</b> 1631

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-19, 41 and 42.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/ERIC S. DEJONG/  
Primary Examiner, Art Unit 1631

Continuation of Item 5. NOTE:

All rejections and/or objections set forth in the Final Office action, mailed 02/19/2010.

Claims 1-19, 41, and 42 are rejected under 35 USC 103(a) and being unpatentable over either of Heldmann et al. or Wasterby et al. in further view of Zakharov et al.

With regard to the rejection of claims under 35 USC 103(a) applicants argue that Heldmann et al. and Wasterby et al. fail to teach (1) introducing magnetic particles into the examination area, (ii) generating a magnetic field having a strength such that there is produced in the examination area two part-areas including a first part-area having a low magnetic field strength and a second part-area having a higher magnetic field, and (iii) correlating change in the spatial distribution of the magnetic particles in the examination area with at least one of local concentration, temperature, pressure, viscosity, and pH value.

In response, applicants argument that the prior art fails to teach introducing magnetic particles into the examination area is not persuasive. As set forth in the rejection of record, the prior art teaches the introduction of samples containing spin 1/2 nuclei into an NMR spectrometer in order to conduct measurements. Therefore, the prior art expressly teaches introducing magnetic particles into an examination area.

Applicants argument that the prior art fails to teach two areas, a first part and second part, within the examination area such the magnetic field in the first-part area is low with respect to a second area that has a higher strength magnetic field is not persuasive. As set forth in the rejection of record, the prior art expressly teaches the introduction of magnetic field gradients across a sample in an examination area. Such a magnetic field gradient across the sample generates a spatial variation in the magnetic field and, therefore, meets the limitation set forth in the instant claims.

Applicants argument that the prior art fails to teach correlating change in the spatial distribution of magnetic particles in the examination area with at least one of local concentration, temperature, pressure, viscosity, and pH value is not persuasive. Zakharov et al. expressly teaches relating order parameters and rotational diffusion constant derived from NMR measurements are directly correlated to both temperature and viscosity. Therefore, the prior art expressly teaches the limitation argued by applicants.